

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

RECEIVED

NOV - 9 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
U.S. Network Inc. Petition for Waiver)	DA 98-2137
of Universal Service Contribution)	
)	
LDC Telecommunications, Inc. Petition)	
For Waiver or Reconsideration of the)	
Requirements)	

OPPOSITION

BellSouth Corporation, on behalf of itself and BellSouth Telecommunications, Inc. ("BellSouth"), hereby files these comments in opposition to the Petition for Waiver filed by U.S. Network, Inc. ("U.S. Network") and the Petition for Waiver or, Reconsideration of the Requirements filed by LDC Telecommunications, Inc. ("LDC"; the Petitions for Waiver are collectively referred to hereinafter as the "Petitions") requesting relief from the Commission's rules regarding Universal Service contribution requirements.¹

The Petitions echo other requests that seek to exclude or reduce a carrier's universal service contribution. BellSouth has opposed similar requests for waiver² and continues to

¹ Federal-State Joint Board on Universal Service, CC Docket 96-45, *U.S. Network Inc. Petition for Waiver of Universal Service Contribution*, LDC Telecommunications, Inc. *Petition for Waiver or Reconsideration of Requirements*, Pleading Cycle Established, DA 98-2137 (rel. October 26, 1998). The Commission's rules regarding contribution requirements are codified at 47 C.F.R. §§ 54.703, 54.709 and 54.711. Also, LDC's filing for reconsideration is on an untimely basis as established by 47 U.S.C. § 405.

² See e.g., BellSouth's Opposition to Network Operator Services, Inc.'s Petition for Waiver of Universal Service Contribution or Reconsideration, dated October 2, 1998 and BellSouth's Opposition to Affinity Corporation's Petition for Partial Waiver, dated July 27, 1998.

No. of Copies rec'd 046
List A B C D E

believe that the Commission should not grant this or any other waiver request seeking exclusion or reduction of a carrier's contribution level because doing so will undermine the approach the Commission has crafted to fund Universal Service.³ Granting such waivers would create a situation where the exceptions swallow the rule.

The Telecommunications Act of 1996 was a catalyst for extensive changes in the telecommunications industry and a driving force for developing competition among telecommunication providers. Competition forces every provider of telecommunications services to face changing market conditions which may cause a decline or rise in revenue as compared to previous periods. The contribution mechanism for universal service never contemplated a stagnant industry. Given that revenue variation is an inherent part of the competitive environment in the telecommunications industry, changes in a company's revenue base cannot be a basis for a waiver of the Commission's rules. Such changes simply cannot be equated to an unanticipated change in circumstances. To permit such waivers would essentially eviscerate the rule.

As BellSouth has previously stated, if the Commission believes that its rules are not explicit enough or do not operate appropriately, then the Commission needs to issue a further notice of proposed rulemaking to address these concerns. A rulemaking proceeding is the only appropriate mechanism to alter the Commission's rules. The Commission should not permit its rules to be dismantled piecemeal through the waiver process. At the same time, BellSouth

³ Recently, the Common Carrier Bureau denied two Petitions for Waiver requesting an exemption or reduction in contribution levels to the Universal Service fund. *See, In the Matter of Federal-State Joint Board on Universal Service, United Native American Telecommunications, Inc. Request for Waiver (DA 98-2238), CC Docket No. 96-45, Memorandum Opinion and Order*, released Nov. 4, 1998 and *In the Matter of Federal-State Joint Board on Universal Service, AMSC Subsidiary Corporation Request for Waiver (DA 98-2236), CC Docket No. 96-45, Memorandum Opinion and Order*, released Nov. 4, 1998.

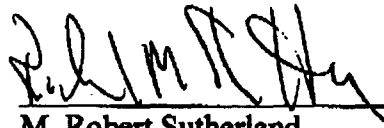
encourages the Commission to take action against these petitions so that the Commission is not burdened unnecessarily by other waiver requests.

Accordingly, the Commission should deny U.S. Network's and LDC's Petitions for Waiver.

Respectfully submitted,

BELLSOUTH CORPORATION

By:



M. Robert Sutherland
Richard M. Sbaratta

Its Attorneys

Suite 1700
1155 Peachtree Street, N. E.
Atlanta, Georgia 30309-3610
(404) 249-3386

Date: November 9, 1998

CERTIFICATE OF SERVICE

I do certify that I have this 9th day of November 1998 served the following parties to this action with a copy of the foregoing OPPOSITION by hand delivery or by placing a true and correct copy of the same in the United States mail, postage prepaid, addressed to the parties listed below.

Dana Frix
Tamar E. Finn
Network Operator Services, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington, D.C. 20007-5116

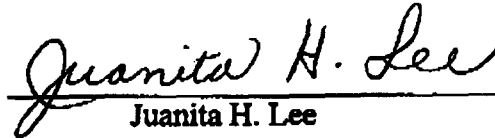
*Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
1919 M Street, N. W.
Room 222
Washington, D. C. 20554

*Sheryl Todd
Federal Communications Commission
Common Carrier Bureau
2100 M. Street, N. W., 8th Floor
Washington, D. C. 20554

*ITS
1231 20th Street, N. W.
Washington, D. C. 20036

Carolyn E. Shellman
Jana Burk
U. S. Network, Inc.
Bickerstaff, Heath, Smiley, Pollan,
Kever & McDaniel, L.L.P.
816 Congress Avenue
1700 Frost Bank Plaza
Austin, Texas 78701-2443

Susan Riccardi
LDC Telecommunications, Inc.
391 Roberts Road, Suite 4
Oldmar, FL 34677



Juanita H. Lee

* VIA HAND DELIVERY